

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
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T-03943A-10-0083

IN THE MATTER OF THE APPLICATION)
OF tw telecom of arizona llc FOR)
AUTHORITY TO ENCUMBER ASSETS)
AND GUARANTY DEBTS IN)
CONNECTION WITH FINANCING)

DOCKET NO. T-03943A-10-_____

Arizona Corporation Commission
DOCKETED

MAR 4 2010

APPLICATION

DOCKETED BY

tw telecom holdings inc. ("tw telecom holdings") and tw telecom of arizona llc

("TWTA") (collectively, the "Applicants" or "Companies"), hereby respectfully request approval from the Arizona Corporation Commission ("Commission") to provide their guarantee, serve as borrowers or co-borrowers, or to otherwise provide security in connection with financings of up to \$1.4 billion being arranged for tw telecom holdings. The Commission has, in prior orders described below, authorized total indebtedness of \$1.1 billion for the Companies. The financings described in this application will largely replace and modestly increase total indebtedness.

The Companies request this authority pursuant to Section 40-285 of the Arizona Revised Statutes and R14-2-804(B)(1) of the Arizona Administrative Code to the extent it may be necessary.¹

¹

Although the Companies are seeking any necessary approval for their participation in this financing transaction, the Companies are doing so without prejudice to their right to assert that this transaction is beyond the jurisdiction of the state commissions. *See, e.g., State ex rel. Utils. Comm'n v. S. Bell Tel. & Tel.*, 207 S.E.2d 772, *aff'd* 217 S.E.2d 543 (N.C. 1975).

In support of this Application, the Companies provide the following information:

I. THE APPLICANTS

TWTA is a leading provider of “last-mile” broadband data, voice, dedicated internet access, and dedicated web hosting to business customers in the Phoenix and Tucson metropolitan areas. In December of 2000, the Arizona Corporation Commission issued Decision No. 63262, granting TWTA a certificate of convenient and necessity for service in Arizona. TWTA entered the Phoenix and Tucson markets the following year by purchasing out of bankruptcy substantially all of the assets of GST Telecommunications Inc. Since that time, TWTA has expanded its network by adding facilities, customers and new services. TWTA is a Delaware limited liability company and is authorized to do business in the State of Arizona.

tw telecom inc is a publically held Delaware corporation (NASDAQ:TWTC) and is the ultimate parent of the TWTA affiliates discussed in this Application. tw telecom holdings is a wholly owned subsidiary of tw telecom inc. and the sole member of TWTA. tw telecom holdings’ principal office is located at 10475 Park Meadows, Littleton, Colorado. An organizational diagram illustrating the current ownership of Applicant is attached hereto as Exhibit “A.”

II. DESIGNATED CONTACTS

The designated contacts for questions concerning this Application are as follows:

Joan S. Burke
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Vice President, Regulatory
tw telecom
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Copies of any correspondence should also be sent to the following designated representative of the Companies:

Rochelle D Jones
Senior Vice President – Regulatory
tw telecom
10475 Park Meadows,
Littleton, CO 80214
212.364.7319 (Direct)
917.597.1395 (Mobile)
303.566.1010 (Fax)
rochelle.jones@twtelecom.com

III. CURRENT ARIZONA COMMISSION FINANCING AUTHORIZATIONS

In Decision No. 67109, the Commission approved a request by tw telecom holdings to borrow up to \$250 million in Fixed Rate Senior Notes due 2/15/2014, up to \$300 million in Floating Rate Senior Secured Notes due 2/15/2011, and a \$150 million senior secured revolving credit facility. In Decision No. 67815 the Commission approved a request by TWTA to guarantee the debt of tw telecom holdings in an amount up to \$400 million of 9.25 percent Senior Notes. In the most recent Commission financing order for TWTA, Decision No. 69392, the Companies received permission to increase overall indebtedness to \$1.1 billion and replace all debt instruments authorized in Commission Decision 67109 with a \$600 million Term Loan (“Term Loan”) and a \$100 million revolving credit facility (“Revolving Credit Facility”). The overall current indebtedness authorized by the Commission for tw telecom holdings includes the \$400 million in Senior notes (Decision No. 67815), the Term Loan of up to \$600 million and the Revolving Credit Facility of \$100 million (Decision No. 69392).

IV. DESCRIPTION OF THE TRANSACTION

The Companies propose that tw telecom holdings be authorized to increase its overall indebtedness from \$1.1 to \$1.4 billion through one or more financing arrangements with banks, other financial institutions and/or other types of investors (the "Financings"). These funds will be used primarily to refinance existing debt. The exact amounts and terms of each Financing, which may be completed in multiple tranches, will not be finalized until the specific arrangement(s) have been completed or shortly before funding of the various transactions, and will reflect the market conditions then existing. Some of the terms, such as interest rate, may fluctuate during the term of each Financing due to changes in market conditions and the financial condition and/or the performance of the borrowers. The details of each Financing are expected to be in the following range:

tw telecom holdings will borrow up to \$500 million in unsecured notes ("Unsecured Notes") and will use these funds to refinance existing unsecured notes of \$400 million (due February 15, 2014) and pay other fees associated with the Financings. The anticipated maturity date of Unsecured Notes is March 15, 2018. Additionally, tw telecom holdings may borrow funds to restructure/increase and or extend the maturity of the \$600 million Term Loan and \$100 million Revolving Credit Facility (originally authorized by Decision No. 69392). It is anticipated that tw telecom holdings will secure this debt with the guarantee and pledge of stock, interests and assets of each operating subsidiary and the parent company, tw telecom inc. In this application, Companies request authorization for TWTA to pledge its assets or act as guarantor in conjunction with these Financings, with total long-term indebtedness of tw telecom holdings not to exceed 1.4 billion.

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The following terms would apply to the Financings:

- Funding Providers:** The funding providers may be banks, financial institutions, private lending institutions, private individuals, and/or other institutions, either individually or as a consortium. The funding group may change over the life of the Financing.
- Amount:** Up to 1.4 billion (an incremental increase over past authorization of \$300 million). Portions of the financed funds may be in the form of conventional credit facilities such as revolving credits (which can be reborrowed during the term of the commitment); letters of credit; the issuance of secured or unsecured notes or debentures (including notes convertible into common stock) to banks, other types of financial institutions or other investors; or term loans.
- Maturity:** Any maturity date will be subject to negotiation and will depend on credit conditions. All maturity dates will be longer than one (1) year.
- Interest:** Any interest rate will likely be the market rate for similar Financings and will not be determined until such time as each Financing is finalized. As is common in such transactions, the interest rate may have two components, a base rate and a margin rate. Any such base rate could be defined as the base or prime rate charged by a specified major bank for loans of similar size with similar maturities or an as adjusted federal funds rate. Eurodollar loans would be based on a specified London Interbank Rate.
- Security:** Relevant to this Application, some and perhaps all of the loans to borrower(s) are expected to be secured by a guarantee and pledge of the stock, interests and assets of each operating subsidiary and the parent company, tw telecom inc. In some cases, the Companies may provide guarantees or be a borrower or co-borrower. The security documents will contain appropriate provisions indicating that the exercise of certain rights thereunder may be subject to obtaining prior regulatory approval.
- Use of Proceeds:** The proceeds will be available to repay or refinance existing debt and for capital expenses, working capital and general corporate purposes.

To the extent specific approval would be required for provision of such commitments by the Companies, such authority is hereby requested.

V. RULE 804 ANALYSIS

Rule 804 of the Commission's Public Utility Holding Company and Affiliated Interest Rules require approval when a utility subject to the Rules guarantees the debt of an affiliate.

A.A.C. R14-2-804 ("Rule 804"). The Commission will approve a guarantee under Rule 804 unless the guarantees will: (1) "impair the financial status of the public utility"; (2) "otherwise prevent it from attracting capital at fair and reasonable terms"; or (3) "impair the ability of the public utility to provide safe, reasonable and adequate service." A.A.C. R14-2-804.C. The Financing meets these criteria.

1. Impair the financial status of the public utility

The Financings will improve, not impair, the financial status of the public utilities insofar as they will allow the Companies to reduce future cash interest payments, reduce interest expenses generally and permit longer debt maturities.

2. Otherwise prevent it from attracting capital at fair and reasonable terms.

The Financings will not make capital more difficult to attract. To the contrary, the Financings will allow the Companies to maintain a strong liquidity position and will enhance future financing flexibility.

3. Impair the ability of the public utility to provide safe, reasonable and adequate service.

The Financings will be completely transparent to TWTA's customers. The Companies will continue to provide the same safe, reasonable, and adequate service that they are providing today. The financing arrangement will not require the Companies to increase their maximum rates for telecommunications services in Arizona. The Companies will remain wholly owned by Parent, will continue to operate and provide telecommunications services in Arizona and will retain the assets used in the provision of those services. The Companies currently have a bond in place pursuant to Commission Decision No. 70057 which protects all customer deposits.

VI. PUBLIC INTEREST ANALYSIS

Approving this Application will serve the public interest by enhancing the ability of the Companies to grow and compete as a provider of telecommunications services in Arizona and nationwide. Approval of the financing transaction described herein is not expected directly to affect in any way the rates or services of the Companies or their affiliates, or result in any change in control of the Companies or their affiliates. The financing arrangement will provide the Companies with the financial resources needed to further grow and expand its business and to compete in today's competitive telecommunications environment.

TWTA competes in Arizona with numerous other competitive local exchange carriers and enhanced service providers as well as the incumbent local exchange carrier. Because the TWTA is a non-dominant carrier, it is not subject to rate of return regulation and its capital structure should not be a matter of concern to the Commission. In addition, because of the highly competitive environment in which it operates, the rates charged customers are subject to market discipline and the services offered by TWTA are available from numerous other carriers. As a result, the source of funds and capital structure of TWTA would have little effect on customers in Arizona. In the unlikely event that TWTA capital structure becomes too costly and rates rise, customers may simply migrate to other carriers with lower rates. Thus, any adverse consequences from the financing decisions impact the shareholders, not the customers, and any favorable consequences benefit both shareholders and consumers through higher profits, lower rates, and better services.

Moreover, because the public interest is best served by assuring the presence of numerous telecommunications competitors in Arizona, it is important to provide such competitors with the flexibility to arrange financing in the manner they deem most appropriate to carry on business so long as there is no adverse impact on the public. To deny such flexibility would discourage new

competitors from entering the state and would encourage existing competitors in the state to seek a more favorable regulatory environment elsewhere, neither of which would enhance the public interest. Given the challenges facing competitive telecommunications carriers, permitting the Companies to manage and reduce overall funding costs in this manner would benefit Arizona consumers.

WHEREFORE, the Companies respectfully request that the Commission approve, to the extent necessary, their participation in the financing transactions described herein and further relief as the Commission may deem appropriate.

DATED this 4th day of March 2010.

By:



Joan S. Burke
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Attorney for: tw telecom arizona llc,
tw telecom holdings inc., and
tw telecom inc.

Original and 13 copies of the foregoing
Filed this 4th day of March 2010 with
Docket Control

VERIFICATION

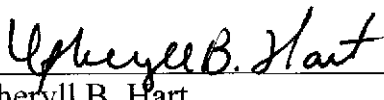
I, Regina A. Vegliante, am Vice President, Finance & Treasury of **tw telecom holdings inc.** and am authorized to represent it and its subsidiaries and affiliates, and to make this verification on their behalf. The statements in the foregoing document relating to **tw telecom holdings inc.** and its subsidiaries and affiliates, except as otherwise specifically attributed, are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing is true and correct.

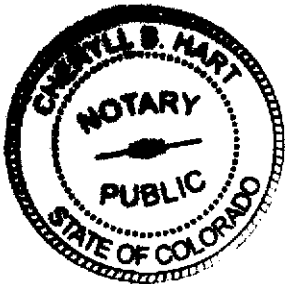


Regina A. Vegliante
Vice President, Finance & Treasury
tw telecom holdings inc.
10475 Park Meadows Drive
Littleton, CO 80124

Subscribed and sworn to before me this 19th day of February, 2010.



Cheryl B. Hart
Notary Public



My Commission expires 2/03/2013.